

**REMARKS:**

This application has been carefully reviewed in view of the final Office Action dated 10/19/2007 for which a Notice of Appeal was filed on January 14, 2008. Upon further consideration, Applicant has elected to withdraw the appeal in favor of the present RCE in order to expedite prosecution in the present application. In view of the above amendments and the arguments presented below, reconsideration and allowance are respectfully requested at an early date.

The Carlson reference of record is used as the primary reference in all rejections. Carlson provides an arrangement for navigation of web pages at a web site. Upon navigation to the site, the menu system is a part of each web page on the site. There is no user command that retrieves the menu system separate from the site. The claims have been amended to reflect this distinction.

Figure 3 of Carlson depicts a map of available pages on the site. In Carlson, regardless of where one navigates, the menu system described by Carlson is always present to provide a roadmap for returning to any particular page on the site. Figures 6A, 6B, 7A and 7B are illustrative of this point. These figures show that Carlson merely provides a shorthand display for the menu matrix in full shown in Figure 3.

Carlson's teachings would be inappropriate if applied outside the area of navigating among web pages in a web site, and in particular in Applicant's application, since an obtrusive menu system would linger in place to obscure and interfere with viewing of AV content. Such an always present menu system would be distracting to the experience in an audio/video environment and is hence unsuitable. Moreover, as amended, the claims call for playing AV content, and for retrieving the user interface (menu system) as a result of a user command during the playing of the AV content. No such concept exists in Carlson which simply retrieves different web pages based upon a position on an always present displayed menu system.

In contrast to Carlson, the crossing menu bars of Applicant's claimed invention permit navigation to a particular function from a first layer menu to a second layer menu, and upon the user making a selection, the menu system then gets out of the way so as to be unobtrusive of the AV viewing experience. The claims have thus been amended to call for the menu to be summoned on command and then removed upon making a

selection from the second menu bar (to paraphrase without intent of imposing further limitations). This amendment is supported generally in the specification, for example at the bottom of page 15.

Since Carlson teaches a menu system that is always present, Applicant submits that the art at minimum provides a teaching against the present system and is possibly even additionally non-analogous. One seeking to modify the teachings of Carlson by having the menu system disappear after selecting from a second level, would find themselves lost and unable to navigate in Carlson's environment. Hence, such a modification is impermissible as it renders the main reference unsuitable for its intended use.

Applicant has reviewed the additional cited Gospel and Gerba references and finds no teaching that provides for the above distinctions, and further finds no reason one of ordinary skill in the art would be motivated to modify Carlson in a manner rendering it inoperative as discussed above. Hence, the proposed combinations are improper and inadequate to establish obviousness of the claims as amended.

Applicant respectfully requests reconsideration and allowance of all claims at an early date.

Respectfully submitted,

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